

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 290 of 1991
with
SPECIAL CIVIL APPLICATIONS NOS.291, 292,
293, 294, 295 and 296 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 NO
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SHUBLAXMI MILLS LTD.

Versus

CHHOTABHAI MORARBHAI PATEL

Appearance:

MRS PJ DAWAWALA for Petitioner (in all matters)
NOTICE SERVED for Respondents No. 1 (in all matters)
MR ARUN D OZA GP for Respondent No.2 & 3 (in SCA Nos.
290, 291, 292, 293 of 1991) and MR DIGANT P JOSHI
AGP (in SCA Nos.294, 295 and 296 of 1991)

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 11/01/2002

C.A.V. COMMON JUDGEMENT

1. All these petitions preferred from the orders of

the Appellate Authority under the Payment of Gratuity Act were heard together even as none appeared for the respondent No.1 in each matter who was the beneficiary of the impugned order. The issues raised and argued in all these cases being common, they are disposed by this common judgment.

2. To recount the facts in brief, in Special Civil Application No.290 of 1991, the respondent workman was awarded Rs.1,802.40 ps. by way of additional sum of gratuity for the period of two years during which the petitioner mill company had remained closed from 1975 to 1977. The period of two years' closure was not considered a break in the continuous service of the employee. That order was challenged in appeal on the ground that the successor in interest, i.e. the Gujarat State Textile Corporation, was not liable to discharge the liabilities incurred before the take-over of the mill company in January, 1986.

3. In Special Civil Application No.291 of 1991, a similar claim of Rs.1,527.60 ps. was allowed and upheld in appeal. In Special Civil Application No.292 of 1991, a similar claim of Rs.2,260.20 ps. was allowed and upheld in appeal. In Special Civil Application No.292 of 1991, a similar claim for a sum of Rs.15,225/- was allowed and upheld in appeal. In Special Civil Application No.294 of 1991, the claim of total sum of gratuity of Rs.28,644/- was upheld in appeal while setting aside the order of the Controlling Authority. In Special Civil Application No.295 of 1991, the claim for additional amount of gratuity for the years during which the mill company remained closed was allowed by the Controlling Authority and the same was upheld in appeal. And in Special Civil Application No.296 of 1991, the claim for gratuity in the sum of Rs.4,265/- remaining due was allowed and upheld in appeal. In all these cases, while admitting the petitions, the Division Bench of this

Court had expressly refused interim relief and, therefore, the aforesaid amounts are supposed to have been since long paid to the respective claimants or their heirs.

4. It was conceded on behalf of the petitioners that the only issue that they proposes to canvass was already covered by an elaborate judgment dated 28.8.2001 of this Court (Coram: K.M.Mehta, J.) in Special Civil Application No.6763 of 1997.

It was submitted that after considering the

arguments of the petitioners and extensive reference to the provisions of the Industries (Development and Regulation) Act, 1951, the Gujarat Sick Textile Undertakings (Nationalization) Act, 1986 and the judgment of the Supreme Court in SHRI DIGVIJAY WOOLLEN MILLS LTD. v. SHRI MAHENDRA PRATAPRAI BUCH & ANOTHER [(1980) 4 SCC 106] it is held in that case that the authorities under the Payment of Gratuity Act were perfectly justified in awarding additional amount of gratuity to the workman and the liability to pay the due amounts was held to be that of the petitioner Corporation.

5. Therefore, following the judgment of this Court as above and in view of the facts and circumstances, all the petitions are rejected. Rule is discharged with no

order as to costs. In view of the disposal of these petitions, the amounts of gratuity, if any, lying deposited with the Appellate Authority shall be released to the respective respondents in each case.

Sd/-

(D. H.Waghela, J.)

(KMG Thilake)